

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO. 19826 of 1997**

**DATE: 19-02-2007**

Between :

Guntamadugu Venkata Raju

... Petitioners

And

The Joint Collector-cum-Settlement Officer,  
Nellore District and another.

... Respondents

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**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION NO. 19826 of 1997**

**ORDER:**

Heard both sides and perused the material on record.

The petitioner herein made a claim petition on 22-02-1997 under the provisions of Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short 'the Act') claiming a ryotwari patta under Section 11 (a) of the Act. The said petition was returned by the first respondent-Joint Collector-cum-Settlement Officer, Nellore on the ground that there was no provision in the Act to condone the delay in filing a claim petition under Section 11(a) of the Act. Aggrieved by the said order passed by the first respondent, dated 07-07-1997, this writ petition is filed.

It is to be noted that though under the provisions of the Act no time as such was prescribed for making a claim under Section 11 (a) of the Act, Rule 2 (4) of Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) grant of Ryotwari Patta Rules, 1973 (for short, 'the Rules') made under G.O.Ms.No.50, Revenue (J-1), dated 16-1-1974 in exercise of powers under Section 67 of the Act provided that an application claiming patta under Section 11 (a) of the Act in respect of an estate in which the ryotwari settlement under Section 22 has already been affected before the commencement of the Rules may be filed before the Settlement Officer within 30 days from the

date of such commencement. The proviso to sub-rule (4) of Rule 2 empowered the Settlement Officer to entertain an application even after the period of 30 days for good and sufficient reasons shown by the applicant. Hence, it cannot be said that there was no provision to condone the delay in filing the claim petition.

In the counter-affidavit filed on behalf of the respondent though the power conferred under the proviso to sub-rule (4) of Rule 2 has not been disputed it is contended that by virtue of G.O.Ms.No.400, Revenue (J A) Department, dated 24-4-1993 the power to condone the delay was withdrawn and therefore the impugned order was rightly passed.

A perusal of G.O.Ms.No.400, dated 24-4-1993 placed before this Court shows that under the said order the only 2<sup>nd</sup> proviso to sub-rule (4) of Rule 2 was omitted. Nothing has been placed before this Court to show that the first proviso to sub-rule (4) of Rule 2 was not subsisting as on the date of the impugned order.

In the circumstances, the impugned order passed on erroneous assumption that there was no provision to condone the delay cannot be sustained.

Accordingly, the impugned order dated 07-07-1997 is set aside and the writ petition is disposed of with a direction to the first respondent to entertain the application filed by the petitioner and pass appropriate orders in accordance with law taking into consideration the explanation offered by the petitioner for the delay. No costs.

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G. ROHINI, J.

Dt. 19-02-2007  
KLP

